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2
3 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
4 **OF THE STATE OF WASHINGTON**

5 IN RE COMPLIANCE
6 WITH RCW 42.17

7 James Stiebritz

8 Respondent.

) PDC CASE NO.: 04-019
)
)

) **FINAL ORDER IMPOSING FINE**
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)
)

9 **INTRODUCTION**

10 The Washington State Public Disclosure Commission (Commission) conducted an
11 enforcement hearing (adjudicative hearing) under chapters 34.05 and 42.17 RCW and chapter
12 390-37 WAC on December 10, 2003 with respect to the above-encaptioned matter. The
13 Commission held the hearing at Evergreen Plaza Building, Room 206, 711 Capitol Way
14 South, in Olympia, Washington. The Commission held the hearing to determine if, as a Port
15 Commissioner in the Port of Ilwaco, the Respondent violated RCW 42.17.240 by failing to
16 timely file the annual Personal Financial Affairs Statement (PDC Form F-1) by April 15,
17 2003, and to determine if the Respondent violated RCW 42.17.240 by failing to timely file the
18 F-1 statement within two weeks of becoming a candidate for the same office in the 2003
19 election, or by August 14, 2003. The Staff appeared through Philip E. Stutzman, Director of
20 Compliance. The Respondent appeared at the hearing by telephone and addressed the
21 Commission.
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24 During the hearing, the Staff presented, for the Commission's consideration, the
25 Notice of Administrative Charges issued November 19, 2003, which alleged a violation of
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1 RCW 42.17.240, and its exhibits, which included: 1) June 25, 2003 Annual F-1 Warning
2 Letter; 2) July 11, 2003 Annual F-1 Brief Enforcement Hearing Notice; 3) July 29, 2003
3 notification of cancelled Brief Enforcement Hearing; 4) Declaration of Candidacy of James
4 Stiebritz; 5) August 20, 2003 Candidate F-1 Warning Letter; and 6) F-1 Report Electronically
5 Filed on September 30, 2003. The Notice of Administrative Charges and exhibits are
6 incorporated by reference into this Order.
7

8 After due consideration of the Notice of Administrative Charges and its exhibits, and oral
9 argument by Staff and the Respondent, the Commission makes the following findings and
10 enters the following order.
11

12 **FINDINGS**

13 Based on this record, the Commission enters the following findings.

- 14 1. RCW 42.17.240 requires elected and appointed officials, after January 1st and before April
15 15th of each year, to file with the commission a Statement of Financial Affairs for the
16 preceding calendar year.
- 17 2. RCW 42.17.240 requires candidates to file with the commission a Statement of Financial
18 Affairs for the preceding twelve months. The report is due within two weeks of becoming
19 a candidate. No individual may be required to file more than one F-1 report in any
20 calendar year.
21
- 22 3. The Respondent is a Port Commissioner in the Port of Ilwaco who held office during 2002
23 and was required to file a Statement of Financial Affairs (PDC form F-1) by April 15,
24 2003.
- 25 4. The Respondent was reminded by letter on June 25, 2003 to file the missing F-1 report.
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1 The Respondent was notified on July 11, 2003 of a brief enforcement hearing scheduled
2 for July 31, 2003. The notice gave him the opportunity to file the missing report, stipulate
3 to a violation of RCW 42.17.240 and pay a \$100 penalty to avoid a brief enforcement
4 hearing.

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6 5. On July 29, 2003, the Respondent was notified that his prior enforcement history made
7 him ineligible for a brief enforcement hearing, and that a hearing before the full
8 Commission would be scheduled. The annual F-1 report was not timely filed.

9 6. The Respondent filed a Declaration of Candidacy with the Pacific County Auditor on July
10 30, 2003. His name appeared on the general election ballot on November 4, 2003. As a
11 candidate in the November 4, 2003 general election, the Respondent was required to file
12 an F-1 report within two weeks of becoming a candidate, or by August 14, 2003. The
13 report, required because the Respondent had not submitted the annual F-1 report by April
14 15, 2003, was not timely filed.

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16 7. On August 20, 2003, the Respondent was sent a letter informing him that the F-1 report
17 due within two weeks of becoming a candidate had not been received. The letter also
18 stated that filing his F-1 report as a candidate would not impact his failure to comply with
19 the annual F-1 filing requirement.

20
21 8. The F-1 report due by August 14, 2003, was filed electronically on September 30, 2003.

22 9. The Respondent stated that he was late in filing the F-1 report because each year his
23 accountant files for an extension to complete his income tax return and the F-1 report is
24 not completed until after the tax return is filed.

1 **ORDER**

2 The Commission orders as follows:

- 3 1. That the Respondent committed two violations of RCW 42.17.240.
4
5 2. That a total civil penalty of \$600 is assessed against the Respondent.
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7 **RECONSIDERATION OF FINAL ORDER - COMMISSION**

8 Any party may ask the Commission to reconsider this final order. Parties must place
9 their requests for reconsideration in writing, include the specific grounds or reasons for the
10 request, and deliver the request to the Public Disclosure Commission Office within **TEN (10)**
11 **days** of the date that the Commission serves this order upon the party. Pursuant to RCW
12 34.05.470(3), the Public Disclosure Commission is deemed to have denied the petition for
13 reconsideration if, within twenty (20) days from the date the petition is filed, the Commission
14 does not either dispose of the petition or serve the parties with written notice specifying the
15 date by which it will act on the petition. Pursuant to RCW 34.05.470(5), the Respondent is
16 not required to ask the Public Disclosure Commission to reconsider the final order before
17 seeking judicial review by a superior court.
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20 **FURTHER APPEAL RIGHTS – SUPERIOR COURT**

21 Pursuant to RCW 42.17.395(5), a **final order** issued by the Public Disclosure
22 Commission is subject to judicial review under the Administrative Procedures Act, chapter
23 34.05 RCW. The procedures are provided in RCW 34.05.510 - .598. Pursuant to RCW
24 34.05.542(2), a petition for judicial review must be filed with the superior court in Thurston
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1 County or the petitioner's county of residence or principal place of business. The petition for
2 judicial review must be served on the Public Disclosure Commission and any other parties
3 within **30 days** of the date that the Public Disclosure Commission serves this final order on
4 the parties.
5

6 If reconsideration is properly sought, the petition for judicial review must be served on
7 the Public Disclosure Commission and any other parties within thirty (30) days after the
8 Commission acts on the petition for reconsideration.
9

10 **ENFORCEMENT OF FINAL ORDERS**

11 The Commission will seek to enforce this final order in superior court under RCW
12 42.17.395-397, and recover legal costs and attorney's fees, if the penalty remains unpaid and
13 no petition for judicial review has been filed under chapter 34.05 RCW. This action will be
14 taken without further order by the Commission.
15

16 DATED THIS 24th day of December, 2003.

17 FOR THE COMMISSION:

18 /s/
19

20 _____
21 VICKI RIPPIE, Executive Director

22 *MAILING DATE OF THIS ORDER:*
23

24 _____
25 *Copy mailed to:*
26 Linda Dalton, Senior Assistant Attorney General